

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA

DINA DARAK,)
)
Plaintiff,) NO.:
) Electronically Filed
vs.)
) Carl R. Schiffman, Esquire
RILLO HOLDINGS, LLC.) Pa. I.D. #23626
d/b/a NAILITE, INC.,)
) Schiffman & Wojdowski
Defendant.) 1300 Fifth Avenue
) Pittsburgh, PA 15219
) 412-288-9444
) schifwojdo@hotmail.com

COMPLAINT

AND NOW, comes the Plaintiff, Dina Darak, by and through her attorneys, Schiffman & Wojdowski and Carl R. Schiffman, Esquire, and files the following Complaint:

1. The Plaintiff Dina Darak is an individual and a resident and citizen of the Commonwealth of Pennsylvania and County of Allegheny, residing at 41 Hiland Avenue, Emsworth, Pennsylvania 15202.

2. The Defendant Rillo Holdings, LLC is a limited liability corporation which is a resident and citizen of the State of Florida with its principal place of business located at 4530 North Hiatus Road, Suite 109, Sunrise, Florida 33351, which at all relevant times traded and did business as Nailite, Inc. and at all relevant times traded and did business in the Commonwealth of Pennsylvania.

3. This Court is granted jurisdiction in this action pursuant to 28 U.S.C. §1332 because (a) the case involves citizens of different states, and (b) the amount in controversy is in excess of Seventy-Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs.

4. On or about March 5, 2009, the Plaintiff was working at her place of employment in Oakmont, Pennsylvania as a manicurist.

5. At the above stated time and place, the Plaintiff was utilizing nail primer manufactured and/or sold and/or supplied by the Defendant.

6. At the above stated time and place, the Plaintiff accidentally knocked the bottle over.

7. As a result of the design of the container, the contents spilled onto her blouse, permeated her blouse, and despite, attempts to wash the clothing and herself, caused her to sustain serious and permanent burn injuries.

COUNT I –
DINA DARAK VS. RILLO HOLDINGS, LLC. d/b/a NAILITE, INC.

8. The Plaintiff hereby incorporates by reference paragraphs 1 through 7 as though the same were more fully set forth at length herein.

9. At all times relevant hereto, the Defendant was engaged in the business of selling and/or supplying nail primer and was a seller as defined by the Restatement (Second) Torts §402A as adopted by the Supreme Court of Pennsylvania.

10. The nail primer and bottle were expected to and did reach the Plaintiff and was used by her without substantial change in the condition in which they were manufactured and sold.

11. The Defendant breached the duties owed to the Plaintiff as mandated by selling the primer in packaging which permitted it to spill when the bottle was not upright.

12. The nail primer and container were further defective because they failed to have all features and accouterments to render them safe for use.

13. The nail primer and container were further defective in that they failed to be properly labeled and have proper warnings.

14. As the sole, direct, legal and proximate result of the breach of the mandates of §402A by the Defendant, the Plaintiff, Dina Darak has sustained the following injuries and damages, some or all of which may be permanent in nature:

- a. Chemical burn to right chest area;
- b. Chemical burn to abdominal wall;
- c. Full thickness burn of chest area;
- d. Limited use of right arm;
- e. She has had to undergo medical treatment including hospitalization;
- f. She has suffered and will continue to suffer great pain, suffering, mental anguish and embarrassment;
- g. Medical bills for treatment have been incurred;
- h. She has been disfigured;
- i. She has been unable to enjoy the ordinary pleasures of life;
- j. She has been unable to perform her normal daily activities;
- k. Her general health, strength and vitality have been impaired; and
- l. Other injuries and damages.

WHEREFORE, the Plaintiff Dina Darak demands judgment in her favor and against the Defendant Rillo Holdings, LLC. d/b/a Nailite, Inc. for an amount in excess of Seventy-Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs.

COUNT II –
DINA DARAK VS. RILLO HOLDINGS, LLC. d/b/a NAILITE, INC.

15. The Plaintiff hereby incorporates by reference paragraphs 1 through 14 as though the same were more fully set forth at length herein.

16. The Defendant was negligent in the following particulars:

- a. In manufacturing and/or selling nail primer in a container which did not prevent spills when upset;
- b. In failing to provide a more secure and stable container; and
- c. In failing to warn of the dangers of utilizing the primer in the container.

17. As the sole, direct, legal and proximate result of the negligence of the Defendant as aforesaid, the Plaintiff, Dina Darak has sustained the injuries and damages previously set forth.

WHEREFORE, the Plaintiff Dina Darak demands judgment in her favor and against the Defendant Rillo Holdings, LLC. d/b/a Nailite, Inc. for an amount in excess of Seventy-Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs.

COUNT III –
DINA DARAK VS. RILLO HOLDINGS, LLC. d/b/a NAILITE, INC.

18. The Plaintiff hereby incorporates by reference paragraphs 1 through 17 as though the same were more fully set forth at length herein.

19. At all times relevant hereto, the Defendant was a “merchant” within the meaning of the Pennsylvania Uniform Commercial Code.

20. Being within the ambit of the foreseeable operation and use of the aforesaid primer and container, the Plaintiff, Dina Darak relied upon the Defendant’s implied warranties of merchantability and fitness for use for which the primer and container were intended to be used and which were extended in accordance with the Pennsylvania Uniform Commercial Code.

21. As the sole, direct, legal and proximate result of the breaches of implied warranties as aforesaid, the Plaintiff has sustained the injuries and damages previously set forth.

WHEREFORE, the Plaintiff Dina Darak demands judgment in her favor and against the Defendant Rillo Holdings, LLC. d/b/a Nailite, Inc. for an amount in excess of Seventy-Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs.

RESPECTFULLY SUBMITTED:

SCHIFFMAN & WOJDOWSKI

By: /s/Carl R. Schiffman
Carl R. Schiffman
Attorney for Plaintiff

VERIFICATION

The undersigned, Dina Darak, Plaintiff named herein, and being authorized to make this Verification for and on her behalf, having read the foregoing COMPLAINT and verifies that the averments are based on information furnished to counsel, which information has been gathered by counsel in the course of this lawsuit. The language is that of counsel and not of signer. Signer verifies that she has read the foregoing, and that it is true and correct to the best of the signer's knowledge, information and belief. To the extent that the contents of the foregoing document are that of counsel, verifier has relied upon counsel in making this verification.

Date: 04-18-10

/s/Dina Darak

Dina Darak

